

July 1, 2021 Zoning Board Meeting Minutes

In Attendance: Harry Kramer, Mike Brill, Joanne Redding, George Seymour, Al Champion, Tom Panzer and Ken Farrell

1. Open meeting with the Pledge of Allegiance
 - a. Led by Joanne Redding
2. Statement of Rules and Procedures
 - a. Issued by Board Solicitor, Tom Panzer
3. Approval of Last month's Minutes
 - a. Motion to Approve last month's Minutes
 - i. Harry Kramer
 - b. Second Motion to Approve last month's Minutes
 - i. Mike Brill
 - c. Vote to Approve last month's Minutes
 - i. 5/5 Ayes
4. Consideration of holding Zoning Hearing Board Meeting on July 7, 2021
 - a. Please see individual summaries
5. Consideration of moving the September Zoning Hearing Board Meeting to September 9, 2021
 - a. Motion to move September Zoning Hearing Board Meeting
 - i. Harry Kramer
 - b. Second Motion to move September Zoning Hearing Board Meeting
 - i. Mike Brill
 - c. Vote to move September Zoning Hearing Board Meeting to September 9, 2021
 - i. 5/5 Ayes
6. Continued Hearing for B & A Property LLC
 - a. Appeal Number: 2020-4124
 - b. Location: 4220 Bristol Road
 - c. Tax Parcel: 02-017-114-001
 - d. Request: Variance to use property for truck parking
 - e. Exhibits:
 - i. Previously noted
 - f. Summary
 - i. This is the third (3rd) hearing for the Appellant. A memo was ordered to be submitted by June 10, 2021. The memo was not submitted by Mr. Clark, attorney for the Appellant, until July 1, 2021. Township Attorney, Mr. Heleniak requested the Board to strike the Memo from the record. Tom Panzer issued an opinion on the matter to deny the motion to strike because the memo is not being submitted as evidence but as to present an argument. However, if the Board accepts the motion then the memo could be just read or ignored. Joanne Redding stated that a deadline is a deadline and the memo should not be accepted but understand Tom Panzer's point. A vote was taken among the Board Members. Harry Kramer, Mike Brill, George Seymour, and Joanne Redding all declined the motion. Al Champion voted to accept the motion. No

new evidence would be presented regarding the variance request. Evidence concluded. Attorney Heleniak raised questions with Ken Farrell regarding Township exhibits T-13-14 (zoning maps). Ken Farrell confirmed that the highlighted areas on the maps were industrial zones where truck terminals are accepted. The surrounding districts are highway, commercial and residential. The G-I district was not notated on the map. Township exhibit T-15 was a Google Map of the Railway Bridge to the west of the site which is approximately 100 feet from the property. The capacity of Bristol Road is similar to a heavily traveled country road. The photos submitted as Township Exhibit T16 is a photo taken by the Police Department Drone of the property and taken by enforcement agency. The picture shows the property is “peppered” with tractor trailers, trailers, trash, and vans. There are approximately 30-50 of the vehicles at any given time on any given day. The vehicles come and go depending on the time of day. There is a health/safety/welfare issue because trucks are unable to make a left hand turn there which makes the location non conducive and the reason why the property is not zoned for this type of use. The C-I district has a buffer adjacent to the highway. This property is a generic property and can handle light manufacturing for box truck deliveries. There is nothing special about this property. Mr. Clark argued the definition of truck is vague and is no different that a modular home and mobile home. Joanne Redding stated she is confused over the connection Mr. Clark was trying to make because you cannot put a mobile home anywhere in a residential neighborhood. Again, Mr. Clark argued that there is no clarification on “truck.” The Board pointed out that the Use and Occupancy issued by Quintin was to a different property owner. Mr. Clark stated the other applicant is irrelevant to the case. Mr. Heleniak stated that the intended use for the property was for a mechanic shop with semi-truck parking based on the mechanic shop. The application was misrepresented. The opposition will try to argue they relied on the certificate for use which give them “vested rights.” Under law opposition does not meet the qualifications for “vested rights.” The Violations continued after multiple citations. There is also no evidence regarding the substantial amount of money spent. Township also argues a violation was filed and appellant filed an U&O application for an office. Mr. Heleniak requested the Board to uphold the Notice of Violation. Mr. Carr’s counterargument began. He stated that appellant did rely on the certificate. The certificate states Mechanic Shop and Semi-Truck parking and semi-truck parking is allowed in the district. There is an allowance for two (2) uses on the property. Original zoning officer is correct and the process should have ended there. The property is used as a parking lot and not a terminal. Mr. Carr argues the ambiguity in the zoning laws. Arguments concluded. Mr. Panzer reminded the Board that there will be two (2) separate votes in this matter, one for the violation and the second for the variance request.

- g. Motion to Close Testimony
 - i. Motion to Close

1. Harry Kramer
 - ii. Second Motion to Close
 1. Al Champion
 - iii. Vote to Close Testimony
 1. 5/5 Ayes
 - h. Motion to Affirm October 28, 2020 Notice of Violation
 - i. Motion to Affirm
 1. Harry Kramer
 - ii. Second Motion to Affirm
 1. George Seymour
 - iii. Vote to Affirm October 28, 2020 Notice of Violation
 1. 4/5 Ayes
 - a. Harry Kramer
 - b. Mike Brill
 - c. Joanne Redding
 - d. George Seymour
 2. 1/5 Nays
 - a. Al Champion
 - i. Motion to Deny request for variance to use property for truck parking
 - i. Motion to Deny
 1. Harry Kramer
 - ii. Second Motion to Deny
 1. George Seymour
 - iii. Vote to Deny request for variance to use property for truck parking
 1. 5/5 Ayes
7. Continued Hearing for Neshaminy Mall JT Venture Ltd
- a. Appeal Number: 2021-1754
 - b. Location: 707 Neshaminy Mall
 - c. Tax Parcel: 02-001-039-001
 - d. Request: Variance to permit trucks to be parked on property
 - e. Attorney: Lindsay A. Dunn, Esq (MacElree Harvey Ltd)
 - f. Exhibits
 - i. Supplemental Exhibits submitted by Appellant and pre-marked A5-A8
 - ii. Application and Certificate of Service remarked as Exhibits A9 and A10
 - g. Summary
 - i. This is the second (2nd) hearing. Appellant is seeking a variance relief and to dismiss the violation notice. Ms. Dunn began her questioning of Ken Farrell by requesting him to read transcript page 29, line 8 referring to his testimony regarding vehicle weights. Next, Ms. Dunn had Ken Farrell review the supplemental exhibit packet. A5 is a picture of the zoning map. Ken Farrell pointed out that the picture is not the most current zoning map. Ms. Dunn moved on to Exhibit A6, a picture of the location of Old Lincoln Highway and Bristol Road. Ms. Dunn pointed out the businesses on the map that have similar weight class vehicles parked on their lots. Business listed by Ms. Dunn were the

Faulkner Auto Dealerships and Service Centers as well as the various used auto groups in the vicinity. Ken Farrell stated that he is unable to agree with Ms. Dunn's argument without given ample time to do his research. However, Ken Farrell stated applicant is using a mall parking lot to park and dispatch trucks out of and the business Ms. Dunn is comparing to are dealerships. Tom Panzer stated to Ms. Dunn that she is not connecting the dots with the case. Ms. Dunn moved to the Exhibit of various vehicles within the same weight class. Joanne Redding stated that these vehicles are parked in lots. **Joanne Redding also mentioned that there is no Amazon store located at the mall and there is no connection between the exhibits and the case.** Ms. Dunn moved on and called on Dennis Deehan, Neshaminy Mall General Manager, to be sworn in. Mr. Deehan has been the general manager of Neshaminy Mall for last 15 years. Mr. Deehan stated the occupancy rate at the beginning of his tenure was at 100% and decreased to 46% in 2021. Mr. Deehan admitted the Sears and Sears Auto building is not occupied. Mr. Deehan stated that the parking of the trucks fills less parking spaces than when Sears occupied the property. Mr. Heleniak verified during cross-examination that no one was operation delivery trucks during Sears/Sears Auto occupancy. No other questions from the Board. No one in audience for or against the variance and/or violation. Tom Panzer, once again, reminded the Board that two votes will be needed in this case. One vote for the violation and one vote for the variance.

- h. Motion to Close Testimony
 - i. Motion to Close
 - 1. George Seymour
 - ii. Second Motion to Close Testimony
 - 1. Al Champion
 - iii. Vote to Close Testimony
 - 1. 5/5 Ayes
- i. Motion to Affirm Violation
 - i. Motion to Affirm
 - 1. George Seymour
 - ii. Second Motion to Affirm
 - 1. Harry Kramer
 - iii. Vote to Affirm Violation
 - 1. 4/5 Ayes
 - a. Harry Kramer
 - b. Mike Brill
 - c. Joanne Redding
 - d. George Seymour
 - 2. 1/5 Nays
 - a. Al Champion
- j. Motion to Deny request for variance to permit trucks to be parked on property
 - i. Motion to Deny
 - 1. George Seymour

- ii. Second Motion to Deny
 - 1. Harry Kramer
 - iii. Vote to Deny Motion request for variance to permit truck to be parked on property
 - 1. 4/5 Ayes
 - a. Harry Kramer
 - b. Mike Brill
 - c. Joanne Redding
 - d. George Seymour
 - 2. 1/5 Nays
 - a. Al Champion
- 8. Continued Hearing for Carleigh’s Castles, LLC
 - a. Appeal Number: 2021-1344
 - b. Location: 2827 Wine Ave
 - c. Tax Parcel: 02-039-107
 - d. Request: variance for minimum lot area and variance for front yard setback to construct dwelling
 - e. Representative: John Richardson—Dumack Engineer
 - f. Attorney: Kenneth Federman, Esquire
 - g. Summary
 - i. This is the second hearing. Exhibits were submitted at June Meeting. Hearing was continued because the Board needed information regarding when and how this lot was created. New exhibit labeled A14 was submitted. Exhibit showed that the property was purchased in 1925. Lots labeled Lot Two (2) and Lot Four (4) in 1957. Each lot was equal to 25 feet. Same owner two (2) separate tax parcels. Arthur Silcox was sworn in. He stated the larger parcel is under contract with another buyer. Joanne Redding stated the buyer created the hardship by not purchasing the subdivided lot. Mr. Silcox stated the parcels were owned by the same owners but purchased at different times. Joanne Redding stated again there is no hardship because the parcel can be made conforming. No further questions. No one for or against the request in the audience.
 - h. Motion to Close Testimony
 - i. Motion to close
 - 1. Al Champion
 - ii. Second Motion to Close
 - 1. George Seymour
 - i. Motion to Approve variance request for minimum lot area and variance for front yard setback to construct dwelling
 - i. Motion to Approve
 - 1. Al Champion
 - ii. Second motion to Approve
 - 1. George Seymour

- iii. Vote to Approve variance request for minimum lot area and variance for front yard setback to construct dwelling
 - 1. 1/5 Ayes
 - a. Al Champion
 - 2. 4/5 Nays
 - a. Harry Kramer
 - b. Mike Brill
 - c. Joanne Redding
 - d. George Seymour
- 9. Continued Hearing for Piyush and Hemal Patel
 - a. Appeal Number: 2021-1859
 - b. Location: 1541 Barnswallow Drive
 - c. Tax Parcel: 02-044-125
 - d. Request: Variance for shed to be less than five (5) feet from property line
 - e. Exhibits
 - i. A-1 Application
 - ii. A-2 Certificates of Service
 - iii. B-1 Letter to Applicant
 - iv. B-2 Proof of Publication in the Bucks County Courier Times
 - v. B-3 Proof of Posting on Property
 - f. Summary
 - i. Shed was constructed in 2013. Neighbor is now complaining of the proximity. Shed is approximately 8x12 and a height of approximately 15 feet. Mr. and Mrs. Patel were not aware a permit was needed. Ken Farrell stated that a survey plan was completed and Mr. and Mrs. Patel are just trying to make things right. Shed is placed on rocks. There is no grass. No questions. No one in the audience for or against the request.
 - g. Motion to Close Testimony
 - i. Motion to Close
 - 1. Mike Brill
 - ii. Second Motion to Close
 - 1. George Seymour
 - iii. Vote to Close Testimony
 - 1. 5/5 Ayes
 - h. Motion to Approve variance request for shed to be less than five (5) feet from property line
 - i. Motion to Approve
 - 1. Mike Brill
 - ii. Second Motion to Approve
 - 1. George Seymour
 - iii. Vote to Approve variance request for shed to be less than five (5) feet from property line
 - 1. 5/5 Ayes
- 10. Continued hearing for Natalie and Thomas Brown

- a. Appeal Number: 2021-1869
 - b. Location: 1082 Lowell Ave
 - c. Tax Parcel: 02-029-220
 - d. Request: Variance for fence height and material in front yard
 - e. Exhibits
 - i. A-1 Application
 - ii. A-2 Certificates of Service
 - iii. B-1 Letter to the Applicant
 - iv. B-2 Proof of Publication in the Bucks County Courier Times
 - v. B-3 Proof of Posting on Property
 - f. Summary
 - i. Mrs. Brown stated her and Mr. Brown are seeking a variance for a six (6) foot resin fence. Neighbors have a lot of traffic in front of their home and produce an excessive number of lights from the headlights that glare into their home. The neighbor's driveway is angled. The pin from the street is 15.5 feet from the right-of-way. Ken Farrell stated to the Board that the neighbor's house is a rental and are not in violation. The driveway shape is characteristic for the area. There is no ordinance for how to park in a private driveway. The fence in question does not cause sight/distance problem. No questions from the Board. No one in the audience for or against the variance request.
 - g. Motion to Close Testimony
 - i. Motion to Close
 - 1. Harry Kramer
 - ii. Second Motion to Close
 - 1. Mike Brill
 - iii. Vote to Close Testimony
 - 1. 5/5 Ayes
 - h. Motion to Approve variance request for fence height and material in front yard
 - i. Motion to Approve
 - 1. Harry Kramer
 - ii. Second Motion to Approve
 - 1. Mike Brill
 - iii. Vote to Motion to Approve variance request for fence height and material in front yard
 - 1. 5/5 Ayes
11. Continued hearing for Amarok LLC (Cindy Williams & Donald McLellan)
- a. Appeal Number: 2021-1571
 - b. Location: 727 Street Road & 850 Dunksferry Road
 - c. Tax Parcel: 02-066-10 & 02-066-011
 - d. Request: Variance for electronic fence with the height greater than 6.5 feet in R-55 district
 - e. Attorney: Eric Goldberg, Esquire
 - f. Summary
 - i. Application was withdrawn

12. Continued hearing for Nina M. Shah

- a. Appeal: 2021-1870
- b. Location: 2866 Wine Avenue
- c. Tax Parcel: 02-039-086
- d. Request: Variance for lot sizes less than 7500 square feet to construct a single-family dwelling
- e. Attorney: Kenneth Federman, Esquire
- f. Summary
 - i. A continuation was issued at June meeting to August 5, 2021 hearing date.

13. Hearing for Jacob Tyler

- a. Appeal Number: 2021-2164
- b. Location: 1352 Park Ave
- c. Tax Parcel: 02-072-002
- d. Request: use variance to convert garage into a barber shop
- e. Attorney: Alex Schneider
- f. Exhibits
 - i. A-1 Application
 - ii. A-2 Certificates of Service
 - iii. B-1 Letter to the Applicant
 - iv. B-2 Proof of Publication in the Bucks County Courier Times
 - v. B-3 Proof of Posting on the Property
- g. Summary
 - i. Applicant would like to use his detached garage to cut hair. Applicant would be the only one working at the "barber shop." Applicant would be seeing one (1) client every 45 minutes. Applicant prefers to use his detached garage instead of paying rent. Ken Farrell stated certification for barber shop/ cutting hair may be permissible; however, not in a residential home. Mr. Schneider stated that the home occupation is not applicable because that is used for home offices (example: sole proprietors). The addition of the second (2nd) story under 400 square feet to cut hair. Joanne Redding restated that it is not permissible in a residential area. Applicant is looking to scale down his business after 15 years. The hours of operation will be Monday through Friday 11 am to 7 pm. The home was approved for a variance for Pony Express Carnevale. The business no longer exists. The business closed due to Covid and the reason applicant would like to cut hair in the detached garage. No question from the Board. Richard Stefanowicz came forward. He is not 100% sure what is being ruled on and is looking for clarification. Clarification was issued.
- h. Motion to Close Testimony
 - i. Motion to Close
 - 1. Mike Brill
 - ii. Second Motion to Close
 - 1. George Seymour
 - iii. Vote to Close Testimony
 - 1. 5/5 Ayes

- i. Motion to Deny variance request to convert garage into a barber shop
 - i. Motion to Deny
 - 1. Mike Brill
 - ii. Second Motion to Deny
 - 1. George Seymour
 - iii. Vote to Deny variance request to convert garage into a barber shop
 - 1. 5/5 Ayes
14. Hearing for Mount Corporation
- a. Appeal Number: 2021-2166
 - b. Location: 1455 Wells Drive/1388 Bridgewater Road
 - c. Tax Parcel: 02-070-007-001
 - d. Request: Variances for impervious coverage and disturbance in steep slope to construct a new warehouse.
 - e. Attorney: Allen Toadvine, Esquire—Begley, Carlin & Mandio, LLP
 - f. Representative: Justin M. Moceris, P.E.
 - g. Motion to Continue Hearing to July 7, 2021
 - i. Motion to Continue
 - 1. Harry Kramer
 - ii. Second Motion to Continue
 - 1. Mike Brill
 - iii. Vote to Continue Hearing to July 7, 2021
 - 1. 5/5 Ayes
15. Hearing for Richard Turchi
- a. Appeal Number: 2021-2194
 - b. Location: 5325 Muriel Lane
 - c. Tax Parcel: 02-054-158
 - d. Request: Variance for rear yard setback less than 25 feet for patio covering
 - e. Exhibits
 - i. A-1 Application
 - ii. A-2 Certificates of Service
 - iii. B-1 Letter to the Applicant
 - iv. B-2 Proof of Publication in the Bucks County Courier Times
 - v. B-3 Proof of Posting on Property
 - f. Summary
 - i. Applicant is looking to replace the existing retractable roof over the existing composite board deck. Two (2) to three (3) posts would be needed to hold the patio covering. Patio covering will only be covering 50% of the deck. Applicant needs 25 feet and only has 18 feet. No questions from the Board. No one for or against the application.
 - g. Motion to Close Testimony
 - i. Motion to Close
 - 1. Al Champion
 - ii. Second Motion to Close
 - 1. George Seymour

- iii. Vote to Close Testimony
 - 1. 5/5 Ayes
 - h. Motion to Approve variance request for rear yard setback less than 25 feet for patio covering
 - i. Motion to Approve
 - 1. Al Champion
 - ii. Second Motion to Approve
 - 1. George Seymour
 - iii. Vote to Approve variance request for rear yard setback less than 25 feet for patio covering
 - 1. 5/5 Ayes
- 16. Hearing for Peaches M. Muniz
 - a. Appeal Number: 2021-2369
 - b. Location: 4767 Tremont Ave
 - c. Tax Parcel: 02-004-229
 - d. Request to rent out lower level of house with stove as an Air B&B
 - e. Motion to Continue Hearing to July 7, 2021
 - i. Motion to Continue
 - 1. Harry Kramer
 - ii. Second Motion to Continue
 - 1. Mike Brill
 - iii. Vote to Continue Hearing to July 7, 2021
 - 1. 5/5 Ayes
- 17. Hearing for EDA Contractors
 - a. Appeal Number: 2021-2371
 - b. Location: 633 Dunksferry Road unit A
 - c. Tax Parcel: 02-075-081
 - d. Request: Variance for building coverage ratio to exceed 25% to construct an addition and a front yard variance for the existing building
 - e. Attorney: Michael J. Meginniss, Esquire—Begley, Carlin & Mandio, LLP
 - f. Motion to Continue Hearing to July 7, 2021
 - i. Motion to Continue
 - 1. Harry Kramer
 - ii. Second Motion to Continue
 - 1. Mike Brill
 - iii. Vote to Continue Hearing to July 7, 2021
 - 1. 5/5 Ayes
- 18. Hearing for Kim and Dennis Crispo
 - a. Appeal Number: 2021-2377
 - b. Location: 519 Station Ave
 - c. Tax Parcel: 02-060-046 and 02-060-045-001
 - d. Request: Variance for front yard setback to construct dormer
 - e. Attorney: Steven M. Jones, Esquire—Begley, Carlin, & Mandio, LLP
 - f. Motion to Continue Hearing to July 7, 2021

- i. Motion to Continue
 - 1. Harry Kramer
- ii. Second Motion to Continue
 - 1. George Seymour
- iii. Vote to Continue Hearing to July 7, 2021
 - 1. 5/5 Ayes

19. Hearing for Manish Patel

- a. Appeal Number: 2021-2380
- b. Location: 2752 Knights Road
- c. Tax Parcel: 02-038-238
- d. Request: Variance for new sign location from right-of-way and property line.
- e. Attorney: TBD
- f. Motion to Continue Hearing to July 7, 2021
 - i. Motion to Continue
 - 1. Harry Kramer
 - ii. Second Motion to Continue
 - 1. George Seymour
 - iii. Vote to Continue Hearing to July 7, 2021
 - 1. 5/5 Ayes

20. Hearing for Industrial Investments, Inc./ELU DeLuca Bensalem, LLC

- a. Appeal: 2021-2449
- b. Location: 4151 Street Road
- c. Tax Parcel: 02-001-014 & 02-001-016
- d. Request: Special exception and impervious and building coverage variance for proposed storage facility
- e. Attorney: Edward F. Murphy, Esquire
- f. Motion to Continue Hearing to July 7, 2021
 - i. Motion to Continue
 - 1. Harry Kramer
 - ii. Second Motion to Continue
 - 1. Mike Brill
 - iii. Vote to Continue Hearing to July 7, 2021
 - 1. 5/5 Ayes

21. Correspondence

- a. None

22. Adjournment

- a. Motion to Adjourn
 - i. Harry Kramer
- b. Second Motion to Adjourn
 - i. Al Champion
- c. Vote to Adjourn
 - i. 5/5 Ayes